



**COMMUNITY DEVELOPMENT DEPARTMENT**

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## **PLANNING COMMISSION MEETING MINUTES**

### **WORKSHOP AND SPECIAL MEETING**

**JULY 30, 2002**

**PRESENT:** Acevedo, Benich, Engles, Escobar, Lyle, Mueller, Weston

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**ABSENT:** None

**LATE:** None

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**STAFF:** Planning Manager (PM) Rowe, Senior Engineer (SE) Creer and Office Assistant II Dieter

Chair Acevedo called the meeting to order at 7:00 p.m.

### **DECLARATION OF POSTING OF AGENDA**

Office Assistant II Dieter certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Acevedo opened the public hearing.

With no one present wishing to speak, the public hearing was closed.

### **WORKSHOP:**

#### **1) VTA**

#### **PRESENTATION**

PM Rowe opened the workshop with an introduction of Chris Augenstein from VTA. Mr. Augustine's presentation was a follow-up to the joint workshop held on May 15, 2002, in which the Planning Commission, the City Council and the Downtown Plan Task Force participated. The workshop was a presentation on the Valley Transportation Authority's Draft Community Design and Transportation Manual, which describes best practices for integrating transportation and land use. Mr Augenstein spoke on creating a vision for where the city would want to go with role of the downtown, and the relationship of the street and transportation in the downtown. Other topics that were discussed included the design for bus shelters. Commissioner Mueller recommended the Downtown Design Plan Task Force work with VTA staff to make sure our planning is consistent with the

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recommendations in the Best Practices Manual.

**MINUTES:**

**JUNE 11, 2002      COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE JUNE 11, 2002 MINUTES WITH THE FOLLOWING AMENDMENTS:**

- **Page 4, paragraph 6, amended to read “that the Commission asked for a full traffic report and modification of traffic mitigations as necessary in the Fall of 2003”.**
- **Page 5, paragraph 6, “~~is better than the old one~~” should read “a lot of cities who don’t have Housing Elements in our shape and they get first priority in the State staffing level.**
- **Page 9, first vote should be amended to read that the Borrowing Owl Plan “if adopted by the City” not the Fish and Game.**
- **Page 10, paragraph 7, correct .98 to 9.2 acre**
- **Page 17, paragraph 4, correct to say the El Toro Youth is a part of Community Solutions**

**THE MOTION CARRIED 6-0-1 AS FOLLOWS: AYES: ACEVEDO, ENGLES, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: BENICH; ABSENT: NONE.**

**JULY 9, 2002      COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE JULY 9, 2002 MINUTES WITH THE FOLLOWING AMENDMENTS:**

- **Page 6, paragraph 6, last line, correct Cochrane Plaza to read Madrone Parkway.**
- **Page 7, item number 5, it should be noted that they are referring to Level F with no fix. *The intersection at Cochrane and Monterey is indicated to be a level “F”; Commissioners felt the level should be two (2) below that or “D”, making the intersection less than desirable for the presented proposal.***

**THE MOTION CARRIED 6-0-1 AS FOLLOWS: AYES: ACEVEDO, ENGLES, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: BENICH; ABSENT: NONE.**

**OLD BUSINESS:**

- 2) ZA-01-23: COCHRANE-IN-N-OUT BURGER**      A request for approval to amend the precise development plan for the planned unit development located at the northwest quadrant of Cochrane Rd. and Hwy 101 to allow for an approximate 3,250 sf drive-thru restaurant. The subject site was originally approved for a 6,300 sf sit-down restaurant.
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PM Rowe presented the staff report. He restated the recommendation made after the last meeting and stated that staff feels In-n-out Burger has not met the recommendations that were made at the July 9<sup>th</sup> meeting. He added that staff feels that while some changes have been made, that the changes do not provide a significant mitigation of the onsite circulation concerns which were outlined in the staff report.

Commissioner Escobar asked how it was that 18-car stacking was deemed the worst case scenario? Jason Pack, consultant with Fehr & Peers, stated that they counted 18 cars in Gilroy at the lunch-time peak hour. In-N-Out Burger asked Fehr & Peers to do an additional count at the Livermore and Salinas stores, as they felt that the Livermore and Salinas stores are more like the Morgan Hill location than the Gilroy location. Maximum observed queue at Livermore was 15 cars during the lunch-time peak hour. Fehr and Peers did driveway counts in Mt View, but not drive-thru queuing. Gilroy is a unique situation because of the outlet stores. PM Rowe feels that the daytime employment population is greater in Morgan Hill than in the area of Gilroy; therefore, staff felt it was a reliable comparison and a valid count.

Chair Acevedo asked about the reciprocal parking agreement with the Chevron station? PM Rowe stated that there already is an existing parking agreement

Commissioner Lyle queried SE Creer whether the 35 ft path between In-N-Out Burger and the Chevron could be a more narrow aisle? SE Creer noted that Fire has a say in whether or not the isle could be reduced. SE Creer agreed that it is a very wide path. PM Rowe stated that the requirement is 25 feet. Discussion ensued with respect to the drive isle and its ultimate width. SE Creer stated that he would need additional time to review some of the suggestions.

Chair Acevedo opened the public hearing.

First speaker, Ron Volle, Northern California Real Estate Manager for In-N-Out Burger, stated that they do not agree with staff to deny the project. Regarding the gateway location, he stated they would be happy to work with the ARB to develop a unique design for the Morgan Hill location. Mr. Volle continued by saying that the main part of the disagreement is the traffic report. As shown from the counts from Livermore and Salinas, In-N-Out Burger feels that those locations are most like Morgan Hill. Gilroy and Mt. View are the two highest volume stores in Northern California. For example within five miles of Morgan Hill there are approximately 45,000 people, whereas within 3 miles of Mt View there are 100,000 people. The daytime population in Mt. View within 3 miles is over 78,000 and the daytime population in Morgan Hill within 5 miles is 26,000. In-N-Out Burger feels that based on these facts and in their experience, a 16-car stacking queue lane is very adequate for this store. Mr. Volle indicated In-N-Out Burger feels using 46 spaces for the Morgan Hill site would be adequate, still leaving 62 parking spaces for future sit-down restaurant. He added that the City code is 57 spaces. Mr. Volle commented next on vehicular movement, noting that they have made those changes per staff request so that there is only one entry into the drive-thru lane. He said that In-N-Out Burger will do signage to encourage people to use Road "A". Mr. Volle compared the Chevron and the In-N-Out Burger trash enclosures and noted that the In-N-Out Burger enclosure would be facing the same 35 foot drive-isle. He stated that the trash pick-up is before In-N-Out Burger opens for business. He feels that

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would minimize the number of times his associates (employees) would have to cross the drive-isle.

Commissioner Weston questioned the request to allow a fast-food restaurant when it was decided several years ago by the City that we wanted sit-down restaurants. Further he wanted to know if the developer, Tharaldson, made an effort to find a sit-down restaurant. Mr Volle stated that he could have the Tharaldson representative, Mark Knudson, talk to the Commission about the failed attempts to secure tenants such as Chili's, Appleby's, Mimi's, and Fresh Choice. They all felt that the site did not meet the minium demographics.

Commissioner Engles asked Mr. Volle how long the wait would be if they were the 16<sup>th</sup> in the drive-thru line? Mr. Volle stated that they have put 3 grills in restaurants in Northern California and that their drive-thru targets one car every 45 seconds to one minute. He said that In-N-Out Burger knows that people will wait longer when a site first opens, then after a while they may choose not to wait.

Chair Acevedo asked how many parking spaces are at Chevron? Ray Villanueva stated that there are 23 spaces at the Chevron.

There being no other comments, Chair Acevedo closed the public hearing

Commissioner Weston stated that he doesn't believe that there is enough significance in this site plan to warrant breaking the agreement that was originally made with the developer and the City Of Morgan Hill. He doesn't feel that we should allow fast food so close to freeway. Commissioner Weston stated he would not support the project just because it is a fast-food restaurant.

Commissioner Engles stated that he supports this project. He feels that In-N-Out Burger is well thought of and that if Morgan Hill meets their demographic criteria that other retail and restaurants may take another look at our community.

Commissioner Mueller thinks that part of the problem is that we have a commitment from developer and then the developer did not follow through. He asked if it was felt we had enough land for two sit-down restaurants economically. Stated that he had opportunity today to meeting with In-N-Out Burger and another sit-down restaurant. Commissioner Mueller stated the original agreement for two sit-down restaurants may be flawed in that there is not enough land. He is concerned, therefore, if the Commission say no to In-N-Out Burger, we don't have the correct amount of land to get a sit-down restaurant and another quality fast-food restaurant. He noted that if the restaurant is pulled fifteen feet south, it would solve some of the staff issues. Commissioner Mueller stated that with modifications, he would be in favor of the project.

Commissioner Escobar stated the General Plan does not preclude a fast-food restaurant in the gateway area. He feels that we can deal with architectural and traffic mitigation issues, and he would support the application.

Commissioner Benich stated he walked the property today. His biggest concern is to maintain high architectural standards. He would lean in favor of the project with the following conditions. Feels that we need to address the crossover from the Chevron. Also

feels that the building should be moved south and have a one-way drive-thru connecting aisle.

Commissioner Lyle found the new information comparing Livermore to be very important. He also agreed that they may not have enough room for 2 sit-down restaurants. He feels that 5 or 10 ft. should be taken out of the 35 ft. easement. Commissioner Lyle is not sure he likes any of the pictures and the colors, but indicated he knows that he will have to trust the Architectural Review Board (ARB) to make a good decision. Commissioner Lyle noted that he feels the tower heights needed to be lowered. In conclusion, he stated he is cautiously in favor.

Chair Acevedo stated he would be in favor of this application with the changes that were talked about tonight.

Commissioner Lyle stated he is not sure that they are empowered to change that easement. PM Rowe stated that he would look into the conditions of the easement. He stated that those conditions could be noted in the recommended action.

**COMMISSIONERS ESCOBAR/ENGLES MOTIONED TO ADOPT THE MITIGATED NEGATIVE DECLARATION. THE MOTION PASSED 6-1, BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: WESTON; ABSTAIN: NONE; ABSENT: NONE.**

**COMMISSIONER ESCOBAR MOVED TO AMEND THE MOTION WITH STATED AMENDMENT TO STRIKE THE FIRST BULLET UNDER TRANSPORTATION/CIRCULATION ON PAGE 4 OF THE MITIGATED NEGATIVE DECLARATION. THE MOTION PASSED 6-1, BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: WESTON; ABSTAIN: NONE; ABSENT: NONE.**

**COMMISSIONERS ESCOBAR/BENICH MOTIONED TO ADOPT RESOLUTION NO. 02-60A, WITH THE FOLLOWING AMENDMENTS: 1) DELETE FIRST SENTENCE OF ITEM 1C ON PAGE 13 OF STANDARD CONDITIONS; 2) DELETE ITEM #2 ON PAGE 13 OF STANDARD CONDITIONS; 3) ADD CONDITION 23, IF POSSIBLE TO REDUCE 35 FOOT EASEMENT; 4) AMEND ITEM 6, PAGE 13, TO DETERMINE HOW MUCH THE TOWER HEIGHT SHOULD BE LOWERED; 5) ADD CONDITION 24, PROPOSED MONUMENT SIGN NEEDS TO BE A SHARED SIGN WITH THE TWO RESTAURANTS; 6) ADD CONDITION 25 TO RELOCATE BUILDING 10-15 FEET TO THE SOUTH; AND 7) STATE THAT THE DRIVE AISLE SHALL BE A ONE-WAY (WEST TO EAST) ENTRANCE ONLY FROM CHEVRON SIDE 8) ADD SECTION 7: ANGLE PARKING WILL BE MADE AVAILABLE TO PATRONS AS A CONDITION OF APPROVAL. THE MOTION PASSED 6-1, BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: WESTON; ABSTAIN: NONE; ABSENT: NONE.**

**NEW BUSINESS:**

**3) SD- 02-03/** A request for approval of development agreement and an eleven-lot subdivision of a 3.25

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**DA-02-03: HALE** portion of the 69-acre Capriano project located on the south side of Tilton Avenue between  
**GLENROCK/** Hale Avenue and Monterey Road in the R-12,000 Residential Planned Development  
**SHEA HOMES** zoning district.

PM Rowe presented the staff report. He stated that the issues involved in sequencing brought up the necessary amendments to resolve staff concerns. He identified two parcels, #11 and the future area of development off of Dougherty Avenue and Fennel Avenue. He indicated the applicant has an allotment to build eleven units, 9 single-family detached lots and a duet, and that the applicant has a contract with Shea Homes to deliver 10 single-family homes. PM Rowe noted that Mr. Garcia has discussed with the City Attorney the possibility of building 10 single-family homes and of posting a performance bond which would cover the cost of both BMR units, thereby guaranteeing the completion of the BMR within 2 years of approval date of the development agreement.

PM Rowe continued by saying that two approaches could be taken. First, the Commission could adjust sequencing so that BMR units are part of the 11 single-family homes, or recommend the performance bond be posted. These actions would result in modifications to the development agreement. PM Rowe then addressed questions from the Commission.

Commissioner Lyle questioned whether the applicant is being given a two-month extension, as the applicant's building schedule indicates August 21, 2004. He indicated that the recommended action date needed to be changed to June 30, 2004. Commissioner Lyle stated that it appears that the Commission could be granting an entitlement for an allotment that Mr. Garcia doesn't have, and pointed out that Measure "P" strictly forbids any entitlements.

PM Rowe stated that if the project didn't get any new allotments, the guarantee would be that the City could call the bond and build out the project. He continued with the fact that Mr. Garcia will know by March 2003 if he will be getting more allocations from the next Measure "P" competition.

Chair Acevedo opened the public hearing.

Rocke Garcia, Glenrock Builders/Shea Homes, advised that they have a builder willing to give them one allotment, or come next April, they would have acquired more allotments and we would go ahead and be able to finish the project out.

Commissioner Weston asked if Shea Homes would have the ability to revoke the agreement if Glenrock Builders do not perform? Mr. Garcia responded yes.

Commissioner Lyle remarked that he was concerned that a deal was struck on the side with Shea Homes. Commissioner Lyle emphasized the concern of a "side deal", saying he would oppose the proposal if that were the case.

There be no further comments, Chair Acevedo closed the public hearing.

Commissioner Lyle stated that it was never a function of Measure "P" to let developers trade future allotments. He added if they proceed with this action, he felt that the Commission should make a condition that would never happen.

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Commissioner Mueller stated that if the Commission approve this bond, they would get the map recorded, the first 5 homes get built, and they get the BMR's built.

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO ADOPT RESOLUTION NO. 02-61, WITH AMENDMENT TO ITEM 3 ON PAGE 17 OF THE STANDARD CONDITIONS TO READ JUNE 30, 2004. THE MOTION PASSED 6-1 BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, MUELLER, WESTON; NOES: LYLE; ABSTAIN: NONE; ABSENT: NONE.**

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO ADOPT RESOLUTION NO. 02-62, WITH THE FOLLOWING MODIFICATIONS TO THE DEVELOPMENT AGREEMENT: 1) CHANGE PAGE 9 , ITEM "T", TO READ JUNE 30, 2004; 2) CHANGE PAGE 7, ITEM "K", TO READ "PROPERTY OWNER WILL PROVIDE PEDESTRIAN/CAUTION SIGNAL AT DOUGHERTY AND TILTON AT \$2000.00 A UNIT"; AND 3) ITEM "I" TO READ "THE BMR UNIT SHALL BE UNDER CONSTRUCTION AND THE FRAMING INSPECTION PASSED PRIOR TO THE ISSUANCE OF THE 6<sup>TH</sup> BUILDING PERMIT". THE MOTION PASSED 6-1, BY THE FOLLOWING VOTE. AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, MUELLER, WESTON; NOES: LYLE; ABSTAIN: NONE; ABSENT: NONE.**

**OTHER BUSINESS:**

**4) STANDARDS FOR RESIDENTIAL AND PRIVATE STREETS** A discussion regarding the location of sidewalks and street trees along residential and private streets. Discussion ensued on how to produce a pedestrian-friendly neighborhood. It was the consensus of the Commission that the Street Standard be returned to the Commission at a later date for further discussion. The consensus was that the City should return to the old standard of detached sidewalks with street trees in parkway strips.

**5) STREET FRONTAGE LANDSCAPE REQUIREMENTS FOR NORTH MONTEREY RD.** Discussion was held by the Commission regarding the different City standards for street frontage landscaping. It was recommended that the varying standards and inconsistent landscape treatment along our major streets be reviewed by the Architectural Review Board as part of their update of the design review ordinance and Architectural Review Handbook.

**ANNOUNCEMENTS:**

**ADJOURNMENT:** There being no further business, Chair Acevedo adjourned the meeting at 11:10 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**PHYLLIS M. DIETER, OFFICE ASSISTANT II**

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